

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STARR INDEMNITY & LIABILITY COMPANY,

Plaintiff,

vs.

13 Civ. 8580 (GWG)

BRIGHTSTAR CORP. and
BRIGHTSTAR GERMANY GmbH,

Defendants.

**DECLARATION OF KEVIN J.B. O'MALLEY IN OPPOSITION TO
DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to 28 U.S.C. § 1746, KEVIN J.B. O'MALLEY declares under penalty of perjury as follows:

1. I am a member of Nicoletti Hornig & Sweeney, attorneys of record for Plaintiff Starr Indemnity & Liability Company in the above-captioned action. I have been involved in this matter from the beginning and, as such, I am fully familiar with all prior proceedings herein.
2. I make this declaration in opposition to Defendants' motion for partial summary judgment.
3. Relevant portions of some of the exhibits attached hereto have been highlighted by Starr's counsel for the Court's convenience.
4. Attached hereto as Exhibit "58" is a true and correct copy of excerpts from the transcript of the deposition of Marsh USA taken on April 11, 2016.
5. Attached hereto as Exhibit "59" is a true and correct copy of excerpts from the transcript of the deposition of Starr Indemnity & Liability Company taken on February 22, 2017.

6. Attached hereto as Exhibit "60" is a true and correct copy of excerpts from the transcript of the deposition of Oscar Fumagali and Brightstar Germany GmbH taken on October 21, 2016.

7. Attached hereto as Exhibit "61" is a true and correct copy of excerpts from the transcript of the deposition of Turgut Kapisiz taken on March 23, 2017.

8. Attached hereto as Exhibit "62" is a true and correct copy of excerpts from the transcript of the deposition of Mark Arme taken on March 8, 2017.

9. Attached hereto as Exhibit "63" is a true and correct copy of excerpts from the transcript of the deposition of Arturo Osorio taken on September 15, 2016.

10. Attached hereto as Exhibit "64" is a true and correct copy of Exhibit 146 marked at the deposition of Oscar Fumagali and Brightstar Germany GmbH taken on October 21, 2016.

11. Attached hereto as Exhibit "65" is a true and correct copy of Exhibit 103 marked at the deposition of Arturo Osorio taken on September 15, 2016.

12. Attached hereto as Exhibit "66" is a true and correct copy of Exhibit 104 marked at the deposition of Arturo Osorio taken on September 15, 2016.

13. Attached hereto as Exhibit "67" is a true and correct copy of Exhibit 121 marked at the deposition of Arturo Osorio taken on September 15, 2016 (FILED UNDER SEAL).

14. Attached hereto as Exhibit "68" is a true and correct copy of a document produced by Brightstar during the course of this litigation bearing bates stamp numbers B*7098 - B*7099.

15. Attached hereto as Exhibit "69" is a true and correct copy of Exhibit 124 marked at the deposition of Arturo Osorio taken on September 15, 2016.

16. Attached hereto as Exhibit "70" is a true and correct copy of a document produced by XL Specialty Insurance Company during the course of this litigation bearing bates stamp numbers XL 673 - XL 674.

17. Attached hereto as Exhibit "71" is a true and correct copy of a document produced by Brightstar during the course of this litigation bearing bates stamp numbers BSupp287995 - BSupp287999.

18. Attached hereto as Exhibit "72" is a true and correct copy of an excerpt from *Ocean Marine Insurance, Volume 1* (2d ed.) by Arthur L. Flitner and Arthur E. Brunck.

19. Attached hereto as Exhibit "73" is a true and correct copy of a document produced by Zurich American Insurance Company during the course of this litigation bearing bates stamp numbers ZAIC/BRIGHTSTAR 105 - ZAIC/BRIGHTSTAR 152 (FILED UNDER SEAL).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 22, 2018

S/ KEVIN J.B. O'MALLEY